

**Kittery Town Council  
Regular Meeting  
June 25, 2018 – 6:00 p.m.  
Council Chambers**

1. Call to Order: Chairperson Lemont called the regular meeting to order at 6:05 p.m.
2. Introductory: Chairperson Lemont read the introductory.
3. Pledge of Allegiance: Chairperson Lemont led those present in the Pledge of Allegiance.
4. Roll call: Answering the roll were Councilors Frank Dennett, Jeffrey Pelletier, Jeffrey Thomson, Gary Beers, Matthew Brock, Vice Chairperson Charles Denault and Chairperson Kenneth Lemont.
5. Agenda Amendment and Adoption: Chairperson Lemont asked if there were any amendments to the agenda. Councilor Beers replied he would like to add an item under 16, Executive Session and that it would be item "a": "The Kittery Town Council moves to go into Executive Session in accordance with MRS 36, §841, (2), E to consider an application for a hardship abatement due to poverty or infirmity." He said that the Executive Session as listed on the agenda would become "b."

After hearing no other amendments, Chairperson Lemont cast one vote to accept the agenda as amended.

6. Town Manager's Report: As a follow-up to a request by Vice-Chair Denault, Town Manager Amaral reported that household hazardous waste is collected at the Resource Recovery Facility year-round, and they have to be disposed of legally to meet Federal Code. She said they do have vendors that will accept hazardous waste; however, there is no vendor who will accept pesticides. She said the DPW recently updated their Household Hazardous Waste material list and cost of disposal.

Town Manager Amaral said as a follow-up to address the issue of seasonal traffic, she did reach out to MDOT as requested and spoke with Mr. Illian, who told her they will not be successful in lowering the speed limits on some roads. She said they may have an increase in speed limits but that DOT would have to conduct a speed study first. She said they may have had a road posted at one speed and they would have to re-post the roads with a legal speed, so they are at a little bit of a dead end.

Town Manager Amaral reported that in the meantime, she is trying to find a more technological approach to address these issues through way finding apps. She said if Council is interested in pursuing this, she was informed that DOT does have a back-up on speed limit control requests.

Town Manager Amaral said the Port Authority was approached by Mr. Gunnar Ek regarding his aquaculture proposal and he has been helping out the Harbor Master. She said Mr. Ek would like to expand his aquaculture operation and will be presenting his idea to the community at the Port Authority's meeting of July 5<sup>th</sup>. She said any Councilor interested in seeing the presentation is invited to attend the meeting and she will provide a copy of his presentation to Council. She said that his idea needs to be viewed publicly.

Vice-Chair Denault, through the Chair, thanked the Town Manager for the information on the Household Hazardous Waste and asked if the schedule could be posted online. Town Manager Amaral said it is posted on the town's website.

7. Acceptance of Previous Minutes – May 30, 2018

Several corrections were noted. Chairperson Lemont cast one vote to place on file the minutes of May 30<sup>th</sup> as amended.

8. Interviews for the Board of Appeals and Planning Board: none

9. All items involving the town attorney, town engineers, town employees or other town consultants or requested officials.

a. (060318-1) The Kittery Town Council approves a resolution to recognize the Maine National Guard for their efforts and contributions to the restoration of Wood Island.

Chairperson Lemont said the Town Council would like to recognize the National Guard and read the following resolution:

*Whereas, the Maine Army National Guard's 136<sup>th</sup> Engineer Company was present in Kittery from June 1, 2018 to June 30, 2018 to perform technical rehabilitation and repair work on Wood Island; and*

*Whereas, the Maine Army National Guard's 136<sup>th</sup> Engineer Company applied their highly skilled staff and resources in the projects of reconstructing the northern seawall as well as rebuilding and installing the rough electric and plumbing systems inside the Life Saving Station's historic shed; and*

*Whereas, through their efforts, the Maine National Guard performed work valued in excess of \$500,000 for their labor on behalf of the Town of Kittery and in support of the Wood Island Life-Saving Station Association; and*

*Whereas, the Maine National Guard also utilized Fort Foster for their encampment which celebrated the military history of the fort, and provided visitors with a unique opportunity to learn more about Wood Island restoration project and the work of the Maine National Guard.*

*Now, therefore, the Kittery Town Council wishes to recognize the Maine Army National Guard's 136<sup>th</sup> Engineer Company for their efforts and contributions to the restoration of Wood Island. Representing the Maine Army National Guard's 136<sup>th</sup> Engineer Company this evening is First Sergeant Kameel Farag and Sergeant First Class Kevin Sirois.*

Chairperson Lemont thanked them and presented the resolution to First Sgt. Farag and Sgt. First Class Sirois and shook their hands. Everyone applauded. He asked if either one cared to say something, they are welcome to do so.

First Sergeant Farag thanked the Town Council for the opportunity to be recognized. He expressed a huge thank you to everyone who made this project a reality, to Mr. Reid, and the biggest thank you to the people of Kittery who have been amazing hosts, thank you.

b. (060318-2) The Kittery Town Council moves to receive a presentation from Jen Thayer and approve her request for a "Little Free Library" to be placed at Inspiration Park.

Jen Thayer, 47 Martin Rd. and Samantha "Sam" Bailey, 36 Whipple Rd., did a presentation on the "Little Free Library" and spoke briefly about the history on the project. Ms. Thayer said they would like to place a special "box" at Inspiration Park at the intersection of State Road and Government St. She said there are four of these little free libraries and they are placed at each school and that Judy Kehl told her about Inspiration Park.

Ms. Bailey reported the books are provided by a non-profit organization, which sparks creativity in the neighborhoods around the world. She stated that academically, children are growing up in homes

without books and are three years behind their peers in other countries. She said that 61% of low-income families do not have books in the home and that the "little free libraries" are placed to encourage the love of reading and for more information, go on the website, [www.littlefreelibraries.org](http://www.littlefreelibraries.org)

Ms. Thayer said they have them built and ready to go, but they have one that is not so little and it would have to be placed in an area near John Paul Jones park.

Councilor Dennett wanted to know who owns the land where this is going to be located?

Ms. Thayer replied the State owns it and Judy Kehl created that park quite a few years ago. She said she did talk with David Rich about this and asked for some assistance.

Councilor Dennett said he has no objection to it, but his only interest and what he wants to know is, has the owner of the property given consent for this to be placed there?

Ms. Thayer said that Judy Kehl gave us consent.

Councilor Dennett asked if Judy Kehl owns the property?

Councilor Dennett wanted to know if Ms. Thayer had checked with the CEO regarding re-zoning?

Town Manager Amaral said the town maintains the benches in the park and has checked on the provisions and there is no zoning violations.

Councilor Dennett asked again who owns it?

Town Manager Amaral said she will get him the owner's name right now.

Vice-Chairperson Denault asked if they are the big boxes on a pedestal that looks like a birdhouse?

Ms. Thayer said yes.

Vice-Chairperson Denault wanted to know if it was moveable or is it permanent?

Ms. Thayer said the one she is referring to has not been cemented in the ground. She discussed this with Sam, and asked her to speak about it.

Ms. Bailey said, at Shapleigh, it seems to be located near the driveway, next to the road and the students do not have access to it. She said her teachers do not take the students down there so it does not get used to her knowledge.

Ms. Thayer said there are three entrances to the park and would like to place this at the first entrance since that is most visible. She said they can move it and go back later and cement it in.

Vice-Chairperson Denault said it sounds like it will be moveable, based on what Ms. Thayer is saying.

Ms. Thayer said she would assume that they would need to contact "Dig Safe" before moving forward.

Chairperson Lemont asked the Town Manager if it was her understanding that they need approval from the Town Council in order for them to do this?

Town Manager Amaral replied yes, she thought so.

Councilor Thomson shared Councilor Dennett's concern. He said there is a hill and a slope there which was part of the Wentworth-Dennett School grounds and was turned over to the town. He wanted to know how far inland does the right-of-way go from State Road or is it in the State's right-of-way?

Town Manager Amaral replied she cannot answer that question and would have to work with them for all approvals given the town would be on board with it.

**COUNCILOR THOMSON MOVED THAT THE TOWN COUNCIL APPROVE, IN PRINCIPLE, THE REQUEST FROM JEN THAYER FOR THE LITTLE FREE LIBRARY TO BE PLACED AT INSPIRATION PARK LOCATED AT THE CORNER OF STATE ROAD AND GOVERNMENT STREET, PENDING RESEARCH OF ALL APPROVALS AND PERMITS, SECONDED BY COUNCILOR PELLETIER. ROLL CALL VOTE WAS TAKEN WITH ALL VOTING IN FAVOR, 7-0, NONE OPPOSED, MOTION CARRIES.**

Chairperson Lemont thanked Jen Thayer and asked the girl for her name again.

Ms. Bailey responded "Sam, Samantha Bailey."

Chairperson Lemont said she did an excellent job and thanked her.

## 11. DISCUSSION

### a. By members of the public

Chairperson Lemont asked if any member of the public cared to speak and to please limit their discussion to three minutes.

Mr. Bob Gray, 14 Manson Road, said he is president of the Kittery Naval & Historical Society and the Naval Museum and wanted to introduce himself and reach out to the town. He said the lines of communication between the town and the Naval Museum have not always been as rigorous as they could be. He said their goal is to make themselves available to the public and spoke about their new display.

Mr. Gray said that most recently Don Hands has been putting a lot old photos and documents on the computer, so that people will be able to view them on the screen. He said he has developed a digital timeline which people can call up various categories and pick a time line associated with that category. He said that Mr. Hand gave him some Excel spreadsheets he had and there are over 600 photos that will be searchable at the Museum.

Mr. Gray said he would like people to visit the Museum.

Chairperson Lemont thanked Mr. Gray for introducing himself and asked what are the hours of operation?

Mr. Gray responded Weds. – Sat., 10:00 am until 4 pm; Sunday, 1 -4 :00 pm. He said it is a completely volunteer organization and if anyone would like to volunteer, they can always use more volunteers.

## 12. UNFINISHED BUSINESS

(060318-3) The Kittery Town Council hereby ordains Title 15 – Code of Ethics of the Kittery Town Code as presented.

**COUNCILOR BEERS SAID SO MOVED AND COUNCILOR PELLETIER SECONDED.**

Councilor Dennett said point of order – this has already been moved and seconded on Nov. 27, 2017 and postponed to Feb. 26<sup>th</sup>, 2018, which was postponed again to this date, therefore, no motion is necessary in his opinion.

Councilor Pelletier said he would support that.

Chairperson Lemont thanked Councilor Dennett.

Councilor Dennett wanted to know why are they doing this since, there is a financial conflict of interest section and a code of ethics section already in the Town Charter?

Chairperson Lemont asked if that is a rhetorical question or did he want someone to answer that?

Councilor Dennett replied he would like someone to answer that and asked if the sponsor would care to respond?

Councilor Beers said he was sponsor by default because he was Chair at the time it was introduced. He said the draft was an outgrowth where the Town Council made and established roles, agreements and demeanor for consideration for its comportment. He said in the Spring 2016 he was given to understand they should consider an operating manual, and he used some language from Seabrook and the Code of Ethics from Bangor. He said he drafted a document to the interim Town Manager which was shelved at the time and Town Manager Amaral appeared and they were handed over to her for review, legal viewing and consideration of that nature.

Councilor Beers said common sense is not what it used to be and that is where it is at this moment.

Chairperson Lemont thanked Councilor Beers.

Councilor Brock said he was not involved in the early discussion preceding his coming on the Town Council, but he wanted to focus his concern on Appendix A and Council Rules, decorum of the public.

Councilor Beers said point of order – that document is not under consideration. He said the document under consideration is Title 15.

Councilor Brock wanted to know if Council Rules, in any capacity, are being adopted tonight?

Chairperson Lemont responded no.

Councilor Brock wanted to know why is it included with Title 15?

Town Manager Amaral responded we worked hand in hand with it and the Town Council has to have a public hearing on it. She said this is included in the draft manual as well to be consistent.

Councilor Brock wanted to know if it is her intent to bring this forward at a later date to the Town Council for possible adoption?

Town Manager Amaral responded yes, if the Town Council is interested.

Chairperson Lemont asked what page does it start on?

Town Manager Amaral said it starts on the last page of the ordinance.

Councilor Brock said then, from a procedural posture, it seems confusing. He said it has not yet been adopted and asked if it is the intent to inform or provide context for Title 15. He said he has a serious problem with Appendix A because it purports to regulate what the public can say or not say during public comment.

Councilor Beers said point of order, this conversation relative to that document is not germane.

Councilor Brock said he just heard the Town Manager say that this is germane in that she wants to keep it together so we are on the same page and he thinks that Councilor Beers is trying to have it both ways. He said it relates to the main purpose of Title 15 and is appropriate to the discussion as it is included tonight and he wants to be on the record that there is a problem limiting what the public can say to the Town Council under certain circumstances.

Councilor Beers said that the comment regarding the proximity is not been intended to be physical and this is a stand-alone document.

Councilor Brock said that is not what he heard the Town Manager say. He said he wants to make a point on record that there is a real problem with the rules and procedures provided to us tonight as a package with Title 15 and he thought that...

Councilor Beers abruptly interrupted Councilor Brock and stated he would like a ruling on his point of order and that Councilor Brock had made his point four times....

Councilor Brock said he would like to have an opportunity to speak.

Councilor Beers again stated point of order.

Chairperson Lemont said excuse me, and stated they do not have a lot on the agenda. He said that maybe what Councilor Brock is saying is not germane, but going forward, he does not have a problem with him sharing his comments. He asked Councilor Brock to continue.

Councilor Brock said he would like to highlight the language which purports to regulate or limit what members of the public can say to the Town Council. He said if they are boisterous or belligerent that person could be removed from the meeting. He thought the language was broad and a violation of the First Amendment. He said he is certain that concept was brought to the Town Council for consideration partly in light of past history of this Town Council. He said it looks like they are providing "after-the-fact" justification for the removal of a member of the public. He said the town was sued and they had to pay the money to settle and he thought they were aggravating the situation.

Councilor Brock said he appreciated the opportunity to voice his concern and thanked Council.

Councilor Thomson asked the Town Manager, through the Chair, if the proposed Code of Ethics applies to the Town Council and Board members, and if it does, has it been discussed at Board meetings since it was proposed?

Town Manager Amaral replied no, it has not.

Councilor Thomson said they need for this to be discussed. He said it is unclear since they do have language in the Town Charter. He asked if the best way to provide clarity to the Code of Ethics would be to amend and revise the Town Charter language or go by the ordinance and remove the language in the Town Charter, so there is no competing verbiage out there. He said maybe it needs a little more work and the various boards should discuss the document. He said that the School Committee is silent.

Councilor Thomson said that various Boards should discuss this document as they will need to be complying with it and wanted to know if this should apply to the School Committee to use as a model or do they have their own? He said the School Dept. should be contacted and the various Boards need to weigh in on this as well as doing an analysis on "charter" versus "ordinance".

**COUNCILOR THOMSON MOVED THAT ACTION ON THIS ITEM BE POSTPONED UNTIL THE SECOND REGULAR MEETING IN OCTOBER, SECONDED BY COUNCILOR DENNETT.**

Councilor Beers asked if the Council should consider postponing this until after the November election?

Councilor Thomson said that is okay with him and said he would change his motion.

**COUNCILOR THOMSON AMENDED HIS MOTION TO STATE THAT ACTION ON THIS ITEM BE POSTPONED UNTIL THE SECOND REGULAR MEETING IN NOVEMBER.**

Councilor Beers said that will suit him to a "T."

Councilor Dennett asked him how does he know?

Councilor Beers replied that he will be either not elected or dead.

Councilor Dennett said but if he does not have a successor then he would have to stay.

Councilor Beers stated that he doesn't have to show up.

Vice-Chairperson Denault moved the question.

Chairperson Lemont asked Councilor Dennett if he agreed to the amendment.

**COUNCILOR DENNETT SECONDED THE AMENDED MOTION.**

**ROLL CALL VOTE WAS TAKEN WITH ALL VOTING IN FAVOR, 7-0, NONE OPPOSED, MOTION CARRIES.**

Chairperson Lemont asked Councilor Dennett and Councilor Thomson to share their concerns with the Town Manager.

Councilor Dennett said that he already shared his comments with the Town Manager several months ago.

Chairperson Lemont asked him if he would do so again.

### 13. NEW BUSINESS

- a. Donations/gifts received for Council disposition.
- b. Kittery Town Council moves to approve the disbursement warrants.

Chairperson Lemont asked Councilor Beers if the Town and Sewer payables are in due form and he replied yes.

Chairperson Lemont asked Councilor Pelletier if the School payable is in due form and he responded it is.

Chairperson Lemont read the amounts: Town = \$191,580.33 and \$68.88; Sewer = \$4,479.15 and School = \$89,439.50, for a total of \$285,567.86.

**COUNCILOR THOMSON MOVED THAT THE DISBURSEMENT WARRANTS BE PAID AS PRESENTED, SECONDED BY COUNCILOR PELLETIER. ALL WERE IN FAVOR BY A VOICE VOTE, AYE. SEVEN IN FAVOR, NONE OPPOSED, MOTION CARRIES.**

14. COUNCILOR COMMENTS - none

15. COMMITTEE AND OTHER REPORTS – none

16. EXECUTIVE SESSION

Councilor Beers said they will need to include the Town Manager along with Council and asked if they could take up that one first?

Chairperson Lemont replied yes.

a. The Kittery Town Council moves to go into Executive Session in accordance with M.R.S. 36 §841 (2), E to consider an application for a hardship abatement due to poverty or infirmity.

**COUNCILOR BEERS MOVED TO ENTER EXECUTIVE SESSION AT 6:59 P.M. IN ACCORDANCE WITH M.R.S. 36, §841 (2), E TO CONSIDER AN APPLICATION FOR A HARDSHIP ABATEMENT DUE TO POVERTY OR INFIRMITY. COUNCILOR THOMSON SECONDED THE MOTION. ROLL CALL VOTE WAS TAKEN WITH ALL VOTING IN FAVOR, NONE OPPOSED, MOTION CARRIES.**

**COUNCILOR THOMSON MOVED TO EXIT EXECUTIVE SESSION AT 7:12 P.M., SECONDED BY VICE-CHAIRPERSON DENAULT. ROLL CALL VOTE WAS TAKEN WITH ALL VOTING IN FAVOR, NONE OPPOSED, MOTION CARRIES.**

b. (060318-3) The Kittery Town Council moves to go into executive session in accordance with 1 M.R.S. §405 (6) (A) to discuss a personnel matter.

**COUNCILOR THOMSON MOVED TO ENTER EXECUTIVE SESSION AT 7:13 P.M., IN ACCORDANCE WITH 1 M.R.S. §405 (6) (A) TO DISCUSS A PERSONNEL MATTER, SECONDED BY VICE-CHAIRPERSON DENAULT. ROLL CALL VOTING IN FAVOR, NONE OPPOSED, MOTION CARRIES.**

**COUNCILOR THOMSON MOVED TO EXIT EXECUTIVE SESSION AT \_\_\_\_ P.M., SECONDED BY VICE-CHAIRPERSON DENAULT. ROLL CALL VOTE WAS TAKEN WITH ALL VOTING IN FAVOR, NONE OPPOSED, MOTION CARRIES.**

17. ADJOURNMENT:

**COUNCILOR THOMSON MOVED TO ADJOURN THE MEETING AT \_\_\_\_ P.M., SECONDED BY PELLETIER. ALL WERE IN FAVOR BY A VOICE VOTE, AYE, 7-0, NONE OPPOSED, MOTION CARRIES.**

Respectfully submitted,  
Barbara Boggiano  
Recording Secretary

Approved 8-27-18